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+ **W.P.No. 13492 of 2006**

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**THE HON'BLE SRI JUSTICE P.S.NARAYANA**

**W.P.NO.13492 of 2006**

**DATED: 17-08-2006**

Between:

P. Misrimal and others.

..Petitioners.

and

The Government of Andhra Pradesh, rep. by its Principal Secretary, Municipal Administration and Urban Development Department, Secretariat, Hyderabad and others.

..Respondents.

**THE HON'BLE SRI JUSTICE P.S.NARAYANA**

**W.P.No.13492 of 2006**

**ORDER:**

The writ petitioners filed the present writ petition for a writ of mandamus to direct the respondents not to proceed further in any manner in interfering with the properties of the petitioners bearing Municipal Door Nos.27-37-20/1, 27-37-20/A, 27-37-118, 27-37-52, 27-37-160 to 161, 27-37-134, 27-37-1, 27-37-16 to 18 & 27-4-9 to 10, 27-14-55, 27-16-100, 27-37-6, 27-37-163 to 164, 27-37-22, 27-37-7 and 27-12-41 respectively, situated in Mahatma Gandhi Road (Phase-I, Bandar Road), Governorpet, Vijayawada, Krishna District, for the purpose of widening the said road as 120' width in pursuance of the impugned G.O.Ms.No.193, M.A., dated 01-05-2002 and Memo Rc.No.C8-981/2000, dated 06-02-2006 issued by the 1st and 2nd respondents respectively duly declaring the same as illegal, arbitrary and contrary to law and pass such other suitable orders.

2. Sri V.S.N.Sarma, the learned counsel representing the

petitioners, would submit that the impugned G.O. suffers from non application of mind since the decision taken to widen the road to 120' width is neither just nor reasonable and hence, the said G.O. cannot be sustained. The learned counsel also would further submit that as raised in the additional grounds in W.P.M.P.No.21281 of 2006, the procedure under Rule 13-A(1) & (2) of the Urban Development Authority (Hyderabad) Rules, 1997 (hereinafter in short referred to as 'Rules' for the purpose of convenience) had not been followed and in view of the same, the petitioners are bound to succeed. The learned counsel also explained the scope and ambit of Section 12(2) & (3) of the Andhra Pradesh Urban Areas (Development) Act, 1975 (hereinafter in short referred to as 'Act' for the purpose of convenience) and also Section 13 of the said Act and would maintain that in the facts and circumstances of the case, the whole matter may have to be reconsidered.

3. The learned Government Pleader for GAD, however, would draw the attention of this Court to the counter-affidavit filed on behalf of the 1st respondent and would maintain that the procedure as contemplated under Section 12 of the Act and also Rule 13-A(1)&(2) of the Rules had been followed. The learned counsel also would submit that though opportunity was given, the petitioners had not availed the same and approached this Court with such unsustainable stand.

4. Smt K. Aruna, the learned standing counsel representing 2nd respondent, would submit that in the light of the stand taken in the counter affidavit filed by 2nd respondent and also in the light of

the stand taken by the 1st respondent inasmuch as there is no illegality in the G.O. impugned the writ petition is liable to be dismissed.

5. Smt G. Jhansi, representing the learned counsel for the 3rd respondent, had taken this Court through the counter-affidavit filed in this regard and would maintain that though so many house owners are involved in this road widening process, only a few of them approached this Court and obtained an order of status quo and by virtue of the same, the whole further proceedings relating to the road widening came to a stand still.

6. Heard the counsel on record.

7. On a perusal of the grounds raised in W.P.M.P.No.21281 of 2001, the same being more in relation to the contravention of the statutory provisions and the Rules, petition to raise the additional grounds in the aforesaid W.P.M.P. is hereby allowed. The 8th petitioner had stated that he is the joint owner of the building and other petitioners are owners of the buildings in Mahatma Gandhi Road (Bandar Road Phase-1), Vijayawada, Krishna District. It is also stated that the width of the existing Mahatma Gandhi Road (Phase-I, Bandar Road), Vijayawada, Krishna District, from 50' to 65' approximately, is varying at different stretches. The 2nd respondent sent proposals to the Government during 2002 for widening the said road as 120' width from old Bus Stand Junction to the end of Municipal Corporation limits in modification of the earlier master plan. It is also stated that the Government of Andhra Pradesh issued G.O.Ms.No.193, M.A dated 01-05-2002

basing upon the said proposal sent by the 2nd respondent. It is also stated that 2nd respondent while sending the proposals did not conduct any enquiry properly and did not take into consideration the various factors and aspects. It is further stated that the 2nd respondent had not kept in mind the flow of traffic in order to ascertain as to what extent of width road is necessary and sufficient. Hence, it is stated that it is clear that the formation of the opinion by the 2nd respondent in extending the road widening as 120' width is not based upon any relevant material and the first respondent simply relied upon the proposals submitted by the 2nd respondent and issued the G.O. impugned. The 1st respondent, who is the competent authority to decide the matter, has to give sufficient reasons whether widening of the road as 120' width is necessary or not and in the instant case no such reasons were given. It is also stated that Section 12 of sub Section (6) of the Act says "If any question arises whether the modifications which effect important alterations in the character of the plan or whether they relate to the extent of land uses or the standards of population density, it shall be referred to the Government whose decision thereon shall be final". It is also stated that in the instant case, the 2nd respondent referred to the Government without following said procedure with the modification of the master plan and the 1st respondent confirmed the modification plan as submitted by the 2nd respondent mechanically and without applying the mind. It is also stated that the said arbitrary decision of widening the 120' width road will cause great hardship to the building owners and they will be deprived of their properties to a

larger extents. It is also further stated that the existing Eluru road is 60' width road and the authorities took decision to widen Eluru Road (Karl Marx Road) of Vijayawada as 100' to 120' width at various structures. On representation made by the building owners of Eluru road, it was reduced to 80' width even though there is heavy traffic. In the present Mahatma Gandhi Road, there is no heavy traffic. Thereby the authorities had not considered the case of the petitioners in reducing the width and also had not considered the Municipal Council's resolution dated 31-01-2006 in reducing the width of the road as 80' as the traffic on Bandar Road is less than Eluru road. The widening of Bandar Road should also be restricted to 80' width- Phase-1, 90' width-Phase-2 and 100'-Phase-3 as done on Eluru road recently and the authorities should not show any discrimination between Eluru Road and Bandar Road. It is also further stated that the Vijayawada Municipal Council, Vijayawada, in its council meeting, had passed a resolution No.787/2006 dated 31-01-2006 resolving to take up the widening of the Mahatma Gandhi Road Phase-I, Vijayawada, into 80' width road. The decision was also taken for the payment of compensation to the building owners. The said resolution was sent to the Government for approval. The Government did not decide the matter so far and it is pending with the Government. The Government at any time may approve the above council resolution. It is therefore clear from the above facts that the authorities could not arrive the correct decision as to what extent the widening of the Mahatma Gandhi Road is necessary and sufficient. The Municipal Council said 80' width. It is further stated that the Vijayawada-Guntur-Tenali-Mangalagiri Urban Development Authority, Vijayawada, issued a notice in Rc.No.C8-981/2000,

dated 06-02-2006 to all the building owners. The said notice states as follows:-

> "The Government in G.O.Ms.No.193, M.A., dated 01-05-2002 have issued orders approving the MMP No.2/2001 for M.G.Road (Bandar Road). As per MMP the stretch of M.G.Road (Bandar Road) from the Police Control Room to Vangaveeti Mohana Ranga Statue (Municipal Guest House) is identified as 120'-0" VGTM-UDA has now proposed to widen this stretch of M.G.Road (Bandar Road) on the following options.
>
> Option 1: Widening of this stretch to 120'-0" by distributing the required widths on either sides equally duly paying compensation for the structure and site affected as per Land Acquisition Act.
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> Option 2: Widening of this road to 100'-0" will be estimated for compensation for the structures affected by road widening and issued of FAR Bonds for the site surrendered on free of cost.
>
> Government in their orders G.O.Ms.No.484, M.A. & U.D.Dept., Dt.01-11-2002 have issued powers to grant certain relaxations with regard to Coverage, Set Backs and FAR to the owners who surrender their sites on free of cost of widening of the Master Plan roads. These provisions are applicable to the owners who have surrendered their sites and structures as mentioned in the option 2 above and these facilities will not be applicable for option 1".

It is stated that the act of the 2nd respondent in issuing such kind of memos would amount to harassment and threatening the building owners and the same is not permissible under law. A representation submitted by the building owners raising several objections to the said memo was not considered and it amounts to malicious and malafide intention on the part of the authorities and the further proceedings including Land Acquisition Proceedings are illegal. It is also stated that there are Government Buildings on one side of the above road and the authorities had decided to leave away such buildings and wanted to demolish the buildings on the

other side of the road. The authorities have to maintain uniform policy by taking sites equally on both sides of the road. There should not be any discrimination between the Government Buildings and private buildings. Where the Government lands are available, the Municipal Corporation should utilize the said lands first and then only come to the private properties. It is further stated that the petitioners had not given the consent letters as per the 2nd respondent memo dated 06-02-2006 and the authorities had taken a decision to take away the properties of the petitioners for widening the road as 120' width and again it was reiterated that the said extent of 120' width is not required in view of the Municipal Council Resolution. It is further stated that the procedure prescribed by law for deprivation of the rights conferred by Article 21 of the Constitution of India must be fair, just and reasonable and cannot be malafide or unreasonable. It is also stated that an advocate commissioner to be appointed to ascertain the fact as to what extent of width the road widening is necessary. It is also stated that the 4th respondent had taken steps under the Land Acquisition Act by issuing a notification under Section 4(1) of the Land Acquisition Act dated 12-05-2006 to acquire the properties of the petitioners and also issued notices under Section 5(A) of the Act and the petitioners filed objections.

8. The 1st respondent filed counter-affidavit. The 2nd respondent filed W.V.M.P.NO.1452 of 2006 to vacate the interim order. The 3rd respondent also field counter-affidavit. A reply affidavit was also filed again substantially reiterating the same stand taken in the affidavit filed in support of the writ petition and

also denying the stand taken by the respective respondents in their counter-affidavits. In the affidavit filed in support of W.P.M.P.No.21281 of 2006 in which some additional grounds had been raised inasmuch as the same had been permitted by this court, the said grounds also may have to be looked into before dealing with their respective counter-affidavits. It is stated that there are two ways for modification of the master plan in view of the provisions under Section 12 of the Act. Firstly, the Urban Development Authority i.e., the 1st respondent may make the modifications exercising the powers under Section 12(1) of the Act. Secondly, the Government may suo-motu or on a reference made from the authority may make modifications in the plan in view of the provisions under Section 12(2) of Act. It is also stated that the Government issued the G.O. impugned on a reference made by the 2nd respondent exercising the power under Section 12(2) of the Act. So, the 1st respondent has to follow the procedure prescribed under Rule 13-A of the Rules. A specific stand was taken that the 1st respondent had not given any opportunity to the petitioners though they are the affected parties before approval of the modifications and published in Andhra Pradesh Gazette and hence, the action of the 1st respondent in issuing the G.O. impugned without following the provisions of Rule 13-A of the Rules cannot be enforced.

9. In the counter affidavit filed by the 1st respondent, it is stated that in the year 2002, the Vice-Chairman, Vijayawada, Guntur, Tenali, Mangalagiri Urban Development Authority in his letter No.C8-981-2001, dated 27-12-2001 had sent a proposal to

the Government with a request to change the width of the Bandar Road from 80' to 120' in the master plan from old Bus Stand to Benz Circle. In his letter, the Vice-Chairman,Vijayawada, Guntur, Tenali, Mangalagiri Urban Development Authority had reported to the Government that the above road is one of the prime roads in Vijayawada city as per the master plan of Vijayawada city approved in G.O.Ms.No.958, M.A. & U.D. Department, dated 16-12-1969 the width of this road shall be 80' and the existing width is ranging from 60' to 80' and the traffic in the recent past has increased many folds resulting in accidents and it is essential to widen the same to 120' to ease the traffic problems. It is also stated that the proposal sent by the vice-Chairman, Vijayawada, Guntur, Tenali, Mangalagiri Urban Development Authority had been examined and after careful consideration of the matter, Government had proposed to consider the same by making necessary modification to the Master Plan of Vijayawada city by exercising the powers conferred under Section 12(2) of Act, and accordingly, as required under sub-Section (3) of Section 12 of the Act draft notification was issued in memo No.666/I2/2002-1 M.A., dated 14-02-2002 inviting objections and suggestions from any person with respect to the above proposed modification by giving 15 days time and the same was published in the Andhra Pradesh Gazette Part-1 Extraordinary issue No.87, dated 22-02-2002. It is also stated that in the draft notification, it was clearly mentioned that draft will be taken into consideration after expiry of fifteen days from the date of publication of the notification in the Andhra Pradesh Gazette and that any objections or suggestions which may be received from any person with respect thereto before expiry of said period will be considered by the Government of

Andhra Pradesh. Objections or suggestions should be addressed to the Secretary to Government, Municipal Administration and Urban Development Department, Secretariat, Andhra Pradesh, Hyderabad. Further specific stand was taken by the deponent-Joint Director (Town Planning) Municipal Administration and Urban Development Department) that no objections and suggestions had been received from any person within the stipulated period on the proposed modification and hence, the draft notification issued in Memo No.666/L2/2002-1, M.A., dated 14-02-2002 was confirmed in G.O.Ms.No.193 M.A. & U.D. Department, Dated 01-05-2002 whereby in the Master Plan of Vijayawada City the width of the Bandar Road was increased to 120 feet. It is further stated that in view of the above factual position, due procedure had been followed while issuing G.O.Ms.No.193 and hence, the writ petition is to be dismissed.

10. The 2nd respondent filed W.V.M.P.No.1452 of 2006. It is stated that a master plan was prepared for Vijayawada town in G.O.Ms.No.958 M.A. dated 16-12-1969 and the same is deemed to be a master plan prepared under the provisions of the Act. In the said master plan approved by the Government, the Mahatma Gandhi Road (Bandar Road) was shown as 80'. Over a period of more than 3 decades since 1969, the traffic volume on Bandar Road had increased tremendously and it became essential to propose modification to master plan for widening the Bandar Road. It is also stated that respondents have taken up road widening without proper analysis is not correct. The Vijayawada Urban development Authority and the Vijayawada Municipal Corporation have conducted a study through a professionally

competent agency to improve mobility levels and to upgrade transport infrastructure in Vijayawada city. This respondent had engaged M/s. Speck Consultant Private Limited to study the traffic deficiency analysis of various corridors in Vijayawada, basing on the Indian Road congress (IRC): 106-Guidelines for capacity of Urban Roads in Plain areas, 1990. As per that surveys and analysis conducted by the authority and the consultant agency, the volume capacity ratio on Mahatma Gandhi Road (Bandar Road) in phase-I i.e., from Manorama to Ragavaiah Park is crossing 1.90 ratio where as the idle volume capacity ratio based on supply and demand is only 1.0 ratio. Thus the study indicate that the traffic volume on Bandar Road is doubled the capacity of the existing road. It is also stated that as per the requirement of the traffic volume on Bandar Road, which had nearly doubled the volume, this Authority in consultation with the 3rd respondent submitted proposal to the 1st respondent dated 21-12-2001 for making necessary modification to the Master Plan to meet the demand at the present and future, by showing the road as 120'. The 1st respondent in response to the proposal made by the 2nd and 3rd respondents had issued draft variation notification in gazette publication No.I87 dated 22-2-2002 duly calling for objections. The Mahatma Gandhi Road (Bandar Road) Building Owners and Tenants Welfare Association and some individuals submitted their objections to the respondents. The 1st respondent after duly considering the objections and the study of the respondents 2 and 3 and the day to day increase in the vehicular traffic decided it is necessary to widen the road to 120' and issued G.O.Ms.No.193 dated 01-05-2002. Further it is submitted that

under Section 12 of the Act the decision of the Government shall be final. It is also further stated that the 2nd respondent had duly followed that procedure laid down in the Act while proposing the modification to the master plan to the 1st respondent. This authority had conducted surveys and prepared topo plan for the existing and future development on Bandar Road, and after consultation with the 3rd respondent, had proposed the 1st respondent for alteration of the master plan. The 1st respondent after considering the objections raised by the Mahatma Gandhi Road (Bandar Road) Building Owners and Tenants Welfare Association and some individuals had decided to widen the road by 120 feet width. It is further stated that as per the surveys conducted while preparing the master plan it was noticed that daily 72,293 vehicles are passing through Bandar road that is from Fire station to Indira Gandhi Municipal Stadium i.e., Phase-I and Phase-II, whereas in Eluru road, daily vehicles flow is only 49,855. Therefore, there cannot be any comparison between Eluru road and Bandar road. It is further stated that the 1st respondent had not accepted the Vijayawada Municipal Council Resolution dated 21-01-2006 duly reducing the width of the road from 120' to 80' and had issued a show-cause notice calling for explanation from the Municipal Council. Moreover, no objection was raised when the 1st respondent had called for objections before issuing the G.O.Ms.No.193, from the Municipal Council. It is further stated that before sending proposals, the Municipal Council had also participated in the meeting conducted by this authority and the 3rd respondent for sending proposal for alteration of the Master Plan. It is also further stated that the 2nd respondent issued a notice in

Rc.No.C8-981/2000 dated 06-02-2006 mentioning the options to the building owners calling for negotiations to part with their lands in exchange for relaxation of Floor Area Raio, Set back and even Transfer of Developmental Rights (TDRs) to other localities and to other individuals. The notices left the option to the building owners to exchange their lands to an extent of 100 feet for FAR and TDRs bonds or accept land acquisition for the legally valid Master Plan width of 120'. In response to their notices, 38 building owners in Phase-I had voluntarily accepted to part with their lands at free of cost and avail the benefits given by this authority. It is pertinent to note that in Phase-II out of 45 building owners 42 and in Phase-III all the 151 building owners have agreed for the proposal and availed the benefits. Therefore, the said notice does not amount to harassment or is in the nature of threatening but it is only a proposal for negotiations. It is also stated that previously when the Bandar Road was widened from 60' to 80' only government land was taken, as it was only available land. Even now wherever government lands are available, they are taken for road widening programme without any discretion between private land and Government lands. Further, wherever Government land is available, it is taken over to an extent of 120' so as to accommodate parking, bus bays, etc., in the excess 10' on both sides. It is also further averred that as per the study and surveys conducted by the authorities and the agencies and day to day increases in four wheel vehicles in the city, it is necessary to widen the road by 120' width as mentioned under G.O.Ms.No.193 dated 01-05-2002. Further it is stated that the 2nd respondent had proposed to acquire the land for road widening, the building owners

had not given consents as stipulated in law and as laid down by the Courts in number of decisions. Accordingly, a requisition was made to the 4th respondent, who in turn issued notification, vide notification No.3/KST/2000 dated 12-05-2006 under Section 4(1) of the Land Acquisition Act and got published in local newspapers on 02-06-2006 and consequently a notice under Section 5A under the Land Acquisition Act for conducting enquiry had been given in local newspapers as well as personal notices were also sent to all the building owners on 03-06-2006 calling them to participate in the enquiry under Section- 5A of the Land Acquisition Act scheduled to be conducted on 10-06-2006. The 2nd respondent had followed the procedure prescribed by the law and as confirmed by the norms of justices. It is further stated that taking the over all facts and circumstances into consideration and also as per the provisions of the Act aforesaid and inasmuch as taking into consideration the convenience of the public also, the G.O. impugned had been issued and the same does not suffer from any illegality whatsoever and hence, it is prayed that the order of status quo granted by this Court is to be vacated.

11. The 3rd respondent filed a counter-affidavit virtually taking the same stand as taken by the 1st and 2nd respondents. It is stated that it is a fact that the Municipal Council passed resolution and the same was sent to 1st respondent for approval. The 1st respondent had not accepted the resolution and issued show cause notice calling for explanation from the Municipal Council. The issuance of show cause notice by 1st respondent was challenged by some of the individuals by way of W.P.No.4564 of

2006 and the same was dismissed by an order, dated 09-03-2006. It is also stated that no objections were raised before issuing the G.O. impugned by the 1st respondent and in fact, before sending proposals the Municipal Council had also participated in the meetings conducted by the authorities and for sending proposal for alteration of Master Plan by this respondent. It is also stated that when the Bandar road was widened from 60' to 80', only Government land was taken, as it was only available land. Even now wherever government lands are affected, they are taken for road widening programme without any discrimination between private land and government lands. Further, wherever Government land is available, it is taken over to an extent of 120 feet, so as to accommodate parking, bus bays etc., in the excess 10' on both sides. Further, it is also stated that the 1st respondent had issued G.O.Ms.No.363 facilitating the road affected property owners to transfer their Development Right of FAR to other properties in different areas. Wherever an individual property is affected by more than 75%, they are provided with alternate shops in commercial complexes owned by this respondent Corporation.

12. The 8th petitioner filed a reply affidavit again reiterating the same stand taken in the affidavit filed in support of the writ petition. A specific stand was taken that G.O.Ms.No.193, dated 01-05-2002 was issued mechanically without looking into the various difficulties of the building owners and the said G.O. was issued on the proposals submitted by the 2nd respondent. The said G.O. did not say anything, but simply said "the draft variation is confirmed". It is also stated that the Government only issued

show cause notice to the 3rd respondent why the said resolution cannot be cancelled and it seems that the 3rd respondent filed objections to the Government and the matter is still pending. It is also stated that the 2nd respondent's notice dated 06-02-2006 shows that 100' width is sufficient to widen the road. So, it is clear that the contention of the 2nd respondent that it is necessary to widen the road as 120' width cannot be accepted.

13. The G.O. impugned reads as hereunder:

> "The Draft Variation to the Master Plan for Vijayawada city area issued in Government Memo third read above (Government Memo No.666/I2/2002-1, M.A., dated 14-02-2002) was published in the extraordinary issue of Andhra Pradesh Gazette No.87, Part-I dated 22-02-2002. No objections and suggestions have been received within the stipulated period. Hence, the draft variation is confirmed."

14. Section 12 of the Act dealing with modifications to plan, reads as hereunder:

> "(1) The Authority may make such modifications to the plan as it thinks fit, being modifications which, in its opinion, do not effect important alterations in the character of the plan and which do not relate to the extent of land uses or the standards of population density.
>
> (2) The Government may suo motu or on a reference from the Authority make any modifications to the plan, whether such modifications are of the nature specified in sub-section(1) or otherwise.
>
> (3) Before making any modifications to the plan, the Authority or, as the case may be, the Government shall publish a notice in such form and manner as may be prescribed inviting objections and suggestions from any person with respect to the proposed modifications before such date as may be specified in the notice and shall

consider all objections and suggestions that may be received by the Authority or the government.

(4) Every modification made under the provisions of this section shall be published in such manner as the Authority or the Government, as the case may be, may specify and the modifications shall come into operation either on the date of the publication or on such other date as the Authority or the Government may fix.

(5) When the Authority makes any modifications to the plan under sub-section(1) it shall report to the Government the full particulars of such modifications within thirty days of the date on which such modifications come into operation.

(6) If any question arises whether the modifications proposed to be made by the Authority are modifications which effect important alterations in the character of the plan or whether they relate to the extent of land-uses or the standards of population density, it shall be referred to the Government whose decision thereon shall be final.

(7) Any reference in any other Chapter, except this Chapter, to the Master Plan or the Zonal Development Plan shall be construed as a reference to the Master plan or the Zonal Development Plan as modified under the provisions of this section.

Specific reference was made to sub-Sections (2) & (3) of Section 12 of the Act in particular. Further, strong reliance was placed on Rule 13-A of the Rules referred to supra. Rule 13-A of the Rules dealing with modifications to the Master Plan by the Government, reads as hereunder;

"(1) in case the Government desire to make any modification to the Master Plan under sub-section (2) of Section 12 of the Act, a notification shall (after consultation with the Authority) be published in the Andhra Pradesh Gazette in such form as the Government may deem fit inviting objections and suggestions from any person or local authority affected directly or indirectly with respect to the Master Plan proposed to be modified giving FIFTEEN DAYS time in respect of lands proposed to be converted to other than Industrial use and SEVEN DAYS time in respect

> of lands proposed to be converted from any use to 'Industrial use' for the receipt of such objections and suggestions.
>
> (2) Soon after the objections and suggestions are received by the Government, the Government may, if necessary, have local enquiries conducted and given an opportunity to the persons affected to state their objections before the modifications are approved and published in the Andhra Pradesh Gazette."

15. The learned Government Pleader had placed before this Court the relevant material, which ultimately had led to passing of the G.O. impugned. Further, in para 4 of the counter-affidavit, it was specifically pleaded that as required under Sub-Section 3 of Section 12 of the Act, draft notification was issued in Memo No.666/I2/2002-1 M.A., dated 14-02-2002 inviting objections and suggestions from any person with respect to the above proposed modification by giving fifteen days time and the same was published in the Andhra Pradesh Gazette Part-1 Extraordinary issue No.87, dated 22-02-2002 and in the draft notification, it was clearly mentioned that the draft will be taken into consideration after expiry of fifteen days from the date of publication of the notification in the Andhra Pradesh Gazette and that any objections or suggestions which may be received from any person with respect thereto before expiry of said period will be considered by the Government of Andhra Pradesh. Further, a specific stand was taken in para 5 of the counter-affidavit that no objections and suggestions have been received from any person within the stipulated period on the proposed modification, as referred to in para 4 of the counter-affidavit.

16. In the light of the specific stand taken by the 1st respondent, when no objections had been received, the question of recording reasons in detail or lack of reasons and non-application of mind, these aspects may not arise. Further, in the counter-affidavit filed by the 2nd respondent, the reasons in detail had been explained and taking into consideration the public interest and the public convenience, this decision had been taken in accordance with law. On a careful reading of Section 12 of the Act and also Rules 13-A of the Rules referred to supra and also in the light of the material produced before this Court, this Court is satisfied that the procedural formalities had been complied with and as already observed, the question of non-application of mind and non recording of reasons may not have a vital role to play in the absence of receipt of any objections by the 1st respondent within the stipulated time. As per the specific stand taken by the 1st respondent, this Court is thoroughly satisfied that keeping in view the public interest, the traffic problems and the other problems, this decision had been taken. It is true that the individual owners may suffer, but however, the public interest also may have to be kept in mind.

17. On appreciation of the over all facts and circumstances, this Court is satisfied that inasmuch as the G.O. impugned was made in accordance with law, the Writ Petition is devoid of merit and accordingly, the same shall stand dismissed. No order as to costs.

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P.S.NARAYANA,J

Dated:17-08-2006

sj

L.R.copy to be marked.